NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION

November December 2013

NAHMANews

PROTECTING THE INTERESTS OF AFFORDABLE HOUSING PROPERTY MANAGERS AND OWNERS

IN THIS ISSUE

COMMUNITIES OF QUALITY

NAHMA, Industry Comment on VAWA

NAHMA and industry colleagues focused their attention on lease bifurcation, notification, documentation and emergency transfer plans applicable to HUD programs under the 2013 Violence Against Women Act (VAWA), in a comment letter to improve new guidance coming from HUD.

VAWA, a 2005 law reauthorized by Congress in March of this year, provides victims of domestic violence with continuation of essential services such as affordable housing. HUD has outlined the law's effects in "The Violence Against Women Reauthorization Act of 2013: Overview of Applicability to HUD Programs" (Docket No. FR-5720-N-01).

In its comment letter, the industry group said "we believe that preserving housing for victims of domestic violence, dating violence, sexual assault and stalking ('domestic violence') is critically important [and] strongly support the goals of the Violence Against Women Act…." Signers include a diverse group of housing providers, including private property owners and managers and public housing authorities (PHAs) directly affected by VAWA 2013 implementation.

The comments cover a range of policy and practical issues—from determining when to require third-party certification of domestic violence incidents to setting appropriate time periods for the lease bifurcation process.

LEASE BIFURCATION

Both VAWA 2013 and VAWA 2005 enable providers to terminate assistance to the perpetrator and maintain assistance for the victim. If the victim is not the person eligible for housing assistance, providers must offer certain opportunities for housing. These include allowing the remaining tenant a chance to establish eligibility under the same program, and to find new housing or establish eligibility

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QUERIES: Letters to the Editor and other queries should be sent to NAHMA Executive Director Kris Cook at kris.cook @NAHMA.org or to the address above.

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BY KRIS COOK, CAE

Shutdown and Sequester Threaten Housing

AS THIS ISSUE OF *NAHMA NEWS* went to print, the federal government shutdown that paralyzed many programs, including those at HUD, had only recently ended. Its effect on the nation's housing, according to CBS News, was that some borrowers found it harder to close on their mortgages; some lenders had trouble confirming applicants' income tax returns and Social Security data; furloughs at the Federal Housing Administration slowed the agency's processing of loans for some low- to moderate-income borrowers and first-time homebuyers; and HUD wasn't able to provide any additional payments to the nation's 3,300 public housing authorities during the shutdown, "but those authorities should have enough money to continue providing rental assistance through the end of December," CBS said.

And that's just part of the shutdown's effect. Other programs that aid veterans and regulate health, education, food safety and much more lead to a conclusion that this is no way to run the government.

Affordable housing serves the most vulnerable Americans, two-thirds of whom are elderly and the majority of the rest are the working poor. Jeopardizing our ability to provide them with a home poses economic risk to all stakeholders, and is universally stressful, not to mention it has a negative effect on affordable housing development and preservation.

SPECIFIC IMPACTS ON AFFORDABLE HOUSING

Some of the ill effects we've already seen include across-the-board cuts in the FY 2013 Agriculture Appropriations bill, which has resulted in shortfalls in the Section 521 Rural Rental Assistance (RA) program. There is also a potential shortfall of some $1.5 billion in the Project-based Section 8 program if FY 2014 appropriations are not restored to the levels needed for full funding of 12-month contracts.

NAHMA strongly opposes cuts to affordable housing programs, particularly the rental assistance programs. As a result, we strongly urge Congress and the Obama Administration to reverse sequestration so that important housing resources for America's most vulnerable are not harmed.

We need our members to advocate for this as well. You can contact your Senators at http://www.senate.gov/general/contact_information/senators_cfm.cfm, and your Representatives at http://www.house.gov/writerep/. Or better still, use our online NAHMA Maps program to easily find your Congressmen—and it's mobile-device friendly, too.

TAKE ADVANTAGE OF ADVOCACY TOOLS

Our online Grassroots Advocacy Page continues to refine tools for you to use in your advocacy efforts. The Grassroots Action Toolkit contains everything from how to advocate, what to advocate about, who to address your concerns to, and talking points for each issue. Make your voice heard. No more should the most vulnerable Americans be held hostage to Congress's inability to reach consensus on the federal budget. Please contact your Congressional leaders today. **NN**

Kris Cook is Executive Director of NAHMA.

under an alternate program.

The industry recommends HUD's consideration of several key issues while developing its guidance:

Time period. A 60- to 90-day time period for tenants to find new housing or establish eligibility under a new program is recommended. This time period would meet HUD's requirement for reasonableness while concurrently satisfying the expectation that the remaining tenant has the "opportunity" to meet existing program eligibility.

The letter urges HUD to "avoid any interpretation [of the statute] that would result in an unreasonably long period of time to meet these requirements."

Penalty protection. While acknowledging the provider accountabilities under VAWA 2013, the industry group urges that "housing providers should not be penalized where a local housing agency fails to act on a remaining tenant's application for program eligibility during the specified time period."

Remaining tenant responsibilities. HUD must provide guidance on rent payments during the recommended time period for the remaining tenant to resolve the housing situation, said the letter. The group recommends that remaining tenants be responsible for rent payments and other lease obligations. Otherwise, "HUD should commit to continuing assistance to the housing provider for the duration of the time period."

Impact on wait lists and tenant selection. Housing programs covered under VAWA have differing wait list and tenant selection requirements, so "guidance is necessary to clarify whether VAWA's bifurcation and tenant eligibility provisions impact existing wait list and admission criteria."

NOTIFICATION

Notification requirements in VAWA 2005 were expanded in VAWA 2013. The industry group recommends that "to the extent practicable, the required notifications should be incorporated into existing standard program documents and materials that are provided to tenants."

The Tenants' Rights and Responsibilities brochure, the Section 8 Tenancy Addendum-HUD 52641-A, and similar notification materials also should be prioritized for translation to satisfy Limited English Proficiency (LEP) requirements.

DOCUMENTATION

VAWA 2013 specifically allows housing providers to require third-party certification when there is conflicting information about an incident of domestic violence.

The industry group calls for implementing guidance and forms to reflect the ability of housing providers to require third-party certification when:

- No clear evidence exists that domestic violence occurred, or
- A question remains about who is a victim and who is the perpetrator.

Under VAWA 2005, HUD interpreted the act to permit self-certifications but in some instances allowed providers to seek additional documentation of the domestic violence claim. The industry group's recommendations build on this provision and clarify the use of third-party certification.

EMERGENCY TRANSFER PLANS

Emergency transfers can be complicated by "the differing characteristics, roles and capabilities of various housing providers and property types," the group pointed out.

Model emergency transfer plans need to recognize these variations because "while a PHA may have the ability to relocate residents upon request," said the letter, "private property owners and managers (like those participating in the Section 8 Project-based Program and other HUD programs) generally are not in a position to transfer residents to another property or assist individuals in making alternative housing choices."

The industry group recommends that HUD "acknowledge the limitations of transfer policies and reflect the practical realities of the rental housing sector" such as the:

- Limitations on private property owners and managers to make a transfer due to the differing financial partners and ownership interests;
- Volume and availability of dwelling units under the control of various program participants;
- Implementation of emergency transfers as they relate to other competing tenant selection/relocation preferences such as disability, homelessness, and similar situations; and
- Additional circumstances where it is not feasible for an individual PHA, owner or manager to accomplish a transfer.

When transfers are infeasible, the industry group suggested that HUD consider facilitating a resolution by designating a contact in each HUB or program center to whom owners or managers can direct a tenant for alternate housing options.

In these cases, said the letter, "HUD personnel are in the best position to discuss housing solutions," which include:

- Assisted housing properties with local preferences for victims of domestic violence;
- Referral to the local PHA for admission to public housing or the voucher program; and
- Access to and use of Tenant Protection Vouchers.

To read the letter and other information on VAWA, visit the Public Testimony and Industry Letters section of the Grassroots Advocacy Toolkit at NAHMA.org. **NN**

BY MICHELLE KITCHEN

Navigating Our New Political Reality

AS I REFLECT ON THE MAJOR legislative news from 2013, I'm admittedly annoyed. Sequestration is still in effect even though a significant number of senators and congressmen will openly call it "stupid." Even continuing resolutions became controversial this year. Despite these ongoing challenges, I will argue that there are opportunities for successful advocacy if we are willing to adapt and remain vigilant.

I should acknowledge upfront that Congress will always fight over big ideas. There will always be defining ideological differences between the two major political parties. Even members of the same political parties will hold different views on major issues and legislative strategies. After all, these intra-party differences are the reasons for primary elections.

…We can no longer take for granted that any federal affordable housing program is safe from budget cuts. We must speak up on behalf of important housing programs.

ENOUGH WITH THE LINES IN THE SAND

My frustration is not so much about Congress's inability to strike any grand bargain on big ideas such as overhauling the tax code or reforming entitlements. Rather, my frustration lies in the fact that the pursuit of such grand bargains combined with both political parties' starkly drawn ideological lines-in-the-sand are distracting Congress from fulfilling its most basic responsibilities.

Let's consider the annual appropriations process. Allowing for legitimate policy debates about the appropriate size, role and responsibilities of the federal government, it is still Congress' job to ensure agencies have the funding to continue operations. These days, no serious Washington observer expects all agency budgets to be in place before the new federal fiscal year begins on October 1. Passing temporary stop-gap spending bills known as continuing resolutions (CRs) is standard operating procedure. In fact, according to the Government Accountability Office, Congress has passed CRs "in all but 3 of the last 30 years." **This year, Congress could not even pass the Fiscal Year 2014 Continuing Resolution before October 1.** At the root of the disagreement over the CR were legislative riders to block implementation of the Affordable Care Act (also known as Obamacare). As a result, the federal government shut down from October 1 through October 17. It was the first shut-down since 1996.

Such an aggravating situation! Still, it demonstrates the need for strong advocates to better educate members of Congress about the very real and harmful impacts of stop-and-go funding.

DON'T TAKE ANYTHING FOR GRANTED

So how can we navigate this new political reality?

We can be successful if we adapt and persevere. First, we can no longer take for granted that any federal affordable housing program is safe from budget cuts. We must speak up on behalf of important housing programs. NAHMA has provided a number of new user-friendly grassroots advocacy tools to assist your efforts. (Please see Kris Cook's article on page 2 to learn more). Second, we must also engage like-minded individuals in these efforts. There is strength in numbers, and we will need strong coalitions. It is not enough to hope that things will all work out in the end. We have to work to make sure our programs are protected.

Finally, we have to adapt to the new political paradigm. Both the Republican and Democrat Parties are engaged in an ideological war for the support of American voters. We have to engage senators and representatives from both parties with messages that appeal to their core beliefs. Rental assistance programs appeal to Democrats' sense of social justice. NAHMA has found the public-private partnership aspects of federal multifamily housing programs appeal to Republicans. Most importantly, we should use every opportunity to talk about what is right about our programs. How has living in your properties improved the lives of your residents?

TOUGH TIMES MEANS MORE ADVOCACY

Tough times do not present a good reason to disengage from advocacy. Tough times are the reason why all supporters of affordable housing programs should take their advocacy efforts to the next level. **NN**

Michelle Kitchen is Director of Government Affairs for NAHMA.

BY GRACE ROBERTSON

Assuring Developer Fees Are Earned

THE AMOUNT OF CREDIT THE taxpayer can claim each year is determined as:

Eligible Basis x Applicable Fraction = Qualified Basis

Qualified Basis x Applicable Percentage = Credit

A cost incurred to construct the building is includable in its Eligible Basis under IRC §42(d)(1) if the cost is:

- included in the adjusted basis of depreciable residential rental property (IRC §§168 and 103), or
- included in the adjusted basis of depreciable property used in common areas or provided as a comparable amenity to all residential rental units in the building (IRC §168).

A developer fee represents payment for the developer's services and at least a portion of the fee is includable in Eligible Basis. …

AUDIT ISSUES AND TECHNIQUES

There are four basic issues to consider when examining the developer fee.

- Character of the services to be provided,
- Services actually provided,
- Reasonableness of the fee amount, and
- Method of payment.

ISSUE 1: CHARACTER OF THE SERVICES PROVIDED

The development services to be provided will be identified in the agreement entered into by the taxpayer and the developer. This contract, as well as any supporting documentation, should be reviewed to determine what services the developer was expected to perform. Typically, the developer agrees to provide (or may have previously provided) services related to the acquisition, construction, and initial operating phases of development.

Development Costs Includable in Eligible Basis

Examples of services typically associated with the IRC §42 buildings and includable in eligible basis include, but are not limited to:

1. Negotiating agreements for architectural, engineering, and consulting services, the construction of the low income housing (including interiors) or improvements includable in eligible basis, and the furnishing of the associated supplies, materials, machinery or equipment.
2. Applying for and maintaining all government permits and approvals necessary for the construction of the project and securing the certificates of occupancy (or other equivalent documents) when completed.
3. Complying with the requirements imposed by insurance providers during construction
4. Providing oversight, including inspections during the course of construction and approving eventual payment for the services rendered.
5. Implementing the taxpayer's decisions made in connection with the design, development, and construction of the project.

Developmental Costs Not Includable in Eligible Basis

Development of a low-income project requires services that are not associated with the IRC §42 buildings and, therefore, the costs are not includable in eligible basis. Typical services include (but are not limited to):

1. Acquiring the property site.
2. Maintaining contracts, books and records sufficient to establish the value of the completed project.
3. Advising the taxpayer regarding available sources of financing, such as federal, state or local subsidy programs, as well as commercial financing. The developer may also negotiate the terms of the financing with lenders or secure financing. (See Newsletter #52 for additional discussion.)

Costs not included in eligible basis include partnership costs, credit allocations and post-development costs.

The development services to be provided will be identified in the agreement entered into by the taxpayer and the developer.

ISSUE 2: SERVICES ACTUALLY PROVIDED

The second issue to consider is whether the developer actually performed the services. While it is generally expected that one developer will initiate development and then provide services throughout the development process until the project is completed, there are instances where more than one developer is involved. These include concurrent developers and consecutive developers.

ISSUE 3: REASONABLE FEE

While the absolute value of the fee can be large, the developer bears the equally large financial risk of failure. As a best practice, the state agencies have limited the developer fee amount that can be supported by the credit. While the methodologies differ, the state agencies generally limit the fee to a percentage of total costs. The IRS is not compelled to accept the developer fee amount allowed by the state agency and may raise issues involving the reasonableness of the fee amount if the facts and circumstances warrant doing so.

ISSUE 4: METHOD OF PAYMENT

Developer fee payments made during development, or at the time development is completed, and which are identified in the taxpayer's books as payments of developer fees are generally not challenged. When payment is deferred, however, further consideration is needed. Considerations include the performance of additional services, the intent to pay the deferred developer fee, analysis of debt (recourse or nonrecourse debt), genuine indebtedness, related party transactions, and intrinsic economic nature.

In form, the deferred developer fee will be structured as a promissory note or other debt instrument. However, given the relationship between the parties, a court may accord little weight to the form of the transaction. Instead, the essential question is whether the instrument's "intrinsic economic nature is that of a genuine indebtedness."

SUMMARY

Ultimately, the burden is on the taxpayer to demonstrate that the developer fee was earned and includable in Eligible Basis. If the taxpayer has deferred payment, the taxpayer will also need to demonstrate the deferred fee note is bona fide debt. For related party transactions, when a court may accord little weight to the form of the transaction, the intrinsic economic nature of the transaction must be considered; i.e., would an unrelated outside lender advance funds to the taxpayer under like circumstances?

Particularly when the absence of interest provisions (or very low interest rates), unsecured, nonrecourse, subordinated, balloon payment would normally dictate a significant interest rate in a commercial setting to compensate the lender for the associated risks. **NN**

Grace Robertson is an IRS program analyst for examination specialization and technical guidance. This article was excerpted from the LIHC Newsletter #53, published by the IRS in October and distributed free through e-mail. To subscribe, contact Grace.F.Robertson@irs.gov. Also designate whether you would like to receive the Adobe pdf version or the Word document.

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Together we'll go far

Mt. Holly Case Settles Before Reaching Supreme Court

Three weeks before the U.S. Supreme Court was set to hear the Mt. Holly housing discrimination case, the township council agreed to settle the case, which enveloped the concept of "disparate impact" in relation to the Fair Housing Act (FHA).

According to lawyers working on the case, settlement talks had been underway since before the Supreme Court agreed to hear the case, *Township Of Mount Holly, et al.,Petitioners,v.Mt. Holly Gardens Citizens In Action, Inc., et al.,* (No.11-1507). The deal made moot the scheduled December 4, 2013 oral arguments.

The agreement will enable a group of residents in the Mount Holly Gardens neighborhood to acquire newly developed homes in the neighborhood or money to relocate to another area. The residents group had filed the lawsuit in opposition to the township's plan to raze 329 homes and redevelop the community with new single- and multifamily homes and commercial buildings.

As the case was heading toward the Supreme Court hearing, NAHMA and six other leading industry organizations submitted an amici curiae brief to the U.S. Supreme Court. Amici curiae ("friends of the court") is the term for a brief filed with the court by someone who is not a party to the case.

The amici brief was filed in support of the petitioners (the township) by the National Leased Housing Association, National MultiHousing Council, National Apartment Association, New Jersey Apartment Association, Public Housing Authorities Directors Association, National Affordable Housing Management Association, and Council for Affordable and Rural Housing.

Court observers saw Mt. Holly as an important test of whether the government can use certain statistical analyses to pursue discrimination claims, as well as an important checkpoint on the legal concept of disparate impact.

"While Mt. Holly is being resolved without running the full course to a Supreme Court decision, the legal and policy issues in the case are important to understand and monitor," says NAHMA Executive Director Kris Cook. "The potential ramifications to the affordable housing industry of 'disparate impact' rulings could be significant, no matter which way a decision might go."

Disparate impact has been more clearly the law in employment issues, where federal law makes illegal certain practices that discriminate or have an adverse effect on minorities, and the arguments on negative effects are bolstered by statistical evidence.

MT. HOLLY ORIGINS

A citizens group, the Mount Holly Gardens (MHG) Citizens in Action, Inc., sued the city over demolition of a predominantly African American and Latino neighborhood.

Mt. Holly defended its plan to demolish and redevelop the blighted neighborhood; MHG's lawsuit alleged both disparate impact and intentional discrimination in violation of the Fair Housing Act. Disparate impact claims do not require proof of intentional discrimination.

The amici brief supported the petitioner's "position that the FHA does not recognize disparate impact claims, and to provide additional insights based on [the group's] experience providing and managing housing for millions of persons across the United States."

The Obama administration, including the Consumer Financial Protection Bureau, has deployed the disparate impact theory in lawsuits against banks over housing and auto loans At the center of the Mt. Holly dispute for the amici organizations is disparate impact's legal applicability to the Fair Housing Act and the possible de facto creation of new protected classes under the FHA.

DISPARATE IMPACT VS. DISPARATE TREATMENT

Opponents of disparate impact say that the Fair Housing Act (FHA) provides authority only for claims of disparate

Key Arguments Summary

THE TOPLINE ARGUMENTS IN THE AMICI BRIEF encapsulated the issues with disparate impact theory in the context of affordable housing and FHA. These are quoted directly from the brief:

- **Disparate impact theory presents unique problems in the housing context that make it inappropriate as a basis for liability.**
- **Disparate impact liability improperly extends the scope of the FHA and creates de facto protected classes that congress did not intend.**
- **The plain language of the FHA prohibits only intentional acts of housing discrimination. By ignoring the FHA's intent requirement, disparate impact liability creates de facto protected classes that Congress did not allow.**
- **The Court should follow its precedents to assure that the FHA is applied as Congress directed.**
- **Disparate impact liability is not needed to prevent intentional forms of discrimination such as exclusionary zoning.**
- **The Court should not defer to HUD's regulation establishing a discriminatory effects standard under the FHA.**
- **The FHA is unambiguous and prohibits only intentional discrimination.**
- **HUD cannot create a right of action that is not explicit in the text of the FHA.**
- **HUD's disparate impact regulations cannot be applied retroactively.**

AMICI BRIEF, *continued from page 13*

treatment, not disparate impact. As the amici brief points out, "The Petition raised a crucial question about the scope of the FHA and, in particular, whether it creates liability with respect to facially-neutral policies that have a disproportionate effect—or "disparate impact"—on members of the classes protected by the FHA."

Industry groups and other opponents argue that neither the FHA itself nor the legislative history demonstrates that Congress intended to authorize disparate impact claims. The amici brief says, "Disparate impact liability is a judge-made rule that is not supported by the text of the FHA" and, as applied, "has created a series of intractable problems in practice that underscore how inappropriate it is in the context of combating housing discrimination."

The brief also argues that disparate impact liability:

- "… distorts the clear language of the FHA, which prohibits only intentional discrimination, and is at odds with this Court's holdings in other cases that have construed federal antidiscrimination laws" and that have scrutinized the text of those statutes to determine whether Congress actually intended to create disparate impact liability.
- Goes so far beyond Congressional intent that it "effectively creates a series of de facto protected classes."

The brief advocates that the Court:

- Avoid allowing disparate impact analysis to "water down the standard of liability under the FHA" and instead reaffirm FHA's focus on intentional acts of discrimination such as segregation and exclusionary zoning.
- Resist deferring to recent HUD regs establishing a disparate impact standard "because HUD cannot create liability that was not expressly included in the FHA by Congress."

The Circuit Court opinion can be found at http://lawyersusaonline.com/wp-files/pdfs-5/mount-holly-gardens-citizens-in-action-v-mount-holly.pdf, as well as on other sites. **NN**

Changes Needed to Guidance on Fair Housing

Though HUD's proposed rule on affirmatively furthering fair housing does not directly apply to owners and managers of privately owned assisted multifamily housing, NAHMA submitted comments to HUD's Office of General Counsel, because the rule could produce unintended negative consequences for the preservation and new development of affordable multifamily properties.

The Fair Housing Act of 1968 (Title VIII of the Civil Rights Act) requires that HUD administer programs in a manner that furthers fair housing policies. The act outlawed discrimination and set the necessary steps to overcome issues of segregation and promote inclusiveness the housing market.

Under the obligation of "affirmatively furthering fair housing," HUD staff and program participants aimed to promote fair housing choice. However, a 2010 GAO report found that the fair housing elements of current housing and community development planning are not as effective as they could be.

GAO's report focused on the Analyses of Impediments (AI) to fair housing, which are produced by the program participants—public housing agencies (PHAs) and state and local governments.

Among other findings, GAO reported that:

- The actual documentation was deficient since "a sizeable portion of available AI forms are outdated, lack content, and are not comprehensive enough to fully address fair housing impediments"; and
- HUD rarely requested AIs during on-site reviews.

In turn, the GAO recommended that HUD require program participants to update their AIs periodically, follow a specific format, and submit them for review.

HUD RESPONDS TO GAO

HUD's "Proposed Rule: Affirmatively Furthering Fair Housing" (Docket No. FR–5173–P–01, introduced on July 19, 2013) responds to the GAO critiques by:

- Refining the current requirement that program participants complete an AI with a more effective and standardized Assessment of Fair Housing (AFH);
- Improving fair housing assessment, planning and decision-making by providing data that program participants must consider in their Assessments of Fair Housing (AFHs);
- Explicitly incorporating fair housing planning into existing planning processes, the consolidated plan and the PHA Annual Plan;
- Encouraging and facilitating regional approaches to addressing fair housing issues;
- Bringing people historically excluded because of characteristics protected by the Fair Housing Act into full and fair participation in decisions about the appropriate uses of HUD funds and other investments; and
- Establishing an approach to affirmatively further fair housing that calls for coordinated efforts to combat illegal housing discrimination.

According to HUD, the guidance and other HUD assistance should reduce the current data collection burden on program participants so they "spend less time gathering information and more time engaged in conversation with the community regarding the most effective means of advancing their fair housing goals."

NAHMA'S COMMENTS

NAHMA recommendations for the proposed rule would help program participants better understand their responsibilities and options. NAHMA urged that HUD:

- Sharpen the rule to ensure that preservation of existing rental housing is encouraged and make clear that "grantees' investments to preserve, rehabilitate and revitalize properties in distressed neighborhoods does affirmatively further fair housing."
- Clarify the proposed certification requirement that grantees "will take no action that is materially inconsistent with its obligation to affirmatively further fair housing" by explaining the meaning of "materially inconsistent" and not inadvertently dampening preservation, rehabilitation or recapitalization activities.

Examples are a PHA that needs to justify capital improvements on a property in a neighborhood lacking community assets, or one that needs to lower the voucher payment standard in order to stretch a budget hard-pressed to serve the same number of families. Both of these PHAs could have difficulty meeting the proposed rule definition.

- Add a "safe harbor" that would recognize grantees' efforts and hold them harmless for factors outside of their control.
- Provide an opportunity for a more thorough review of the nationally uniform data upon which participants will frame their assessment activities.

Because the data may yield differing interpretations instead of a "clear, consistent, and easily comprehensible picture," NAHMA strongly urged that the public be afforded an additional opportunity to comment on the data provisions.

- Continue working with grantees on the most cost-effective means and lightest administrative burden to comply with the upcoming final rule, particularly "in the context of sequestration and other federal budget cuts." HUD's Regulatory Impact Analysis estimates net annual compliance costs in the range of $3 to $9 million.

To view the *NAHMAnalysis* on the proposed rule, please visit the *NAHMAnalysis* page under the Member Portal at www.nahma.org. **NN**

NAHMA Members Focus on Regulations

NAHMA'S ANNUAL FALL MEETING, held October 27-29, 2013, in Washington, D.C., focused on regulatory affairs, but there also was a lot of dialogue about the federal government shutdown, sequestration and the threat to affordable housing if major programs remain underfunded.

Still, regulatory changes remained the issue at hand.

The HUD Regulatory Forum had invited guests from HUD discussing key issue areas, including restructuring, preservation, funding, REAC, asset management, occupancy, and compliance initiatives. HUD representatives also appeared on a panel discussing key topics and trends in fair housing and at the TRACS & Contract Administration (CAs) Committee meeting.

Several issues that were raised are addressed in this issue of NAHMA News and many appear on NAHMA's website as well.

NAHMA members dedicated to various committees met to discuss Education & Training, Rural Housing, Senior Housing, Membership & Marketing, Budget & Finance, and much more.

The keynote luncheon speaker was Morton Kondracke, political commentator, journalist and long-time panelist on "The McLaughlin Group."

"We are always so impressed with the thoughtfulness, concern and intentionality of our members during our meetings," said Gianna Solari, NAHMA's board president. "And in the midst of all the serious discussions, AHMA executive directors and board presidents get to mingle with affordable housing providers from all across the country. There's richness to the conversations with so much cross-fertilization going on."

POSTER CONTEST AUCTION NETS A RECORD $70,000

With able and enthusiastic auctioneers Gemi Ozdemir and Johrita Solari at the helm, a record $70,000 was raised for the NAHMA Educational Foundation at the fall meeting.

"It's great fun and also really heartwarming to see everyone so excited about making contributions to the foundation," said Foundation Chair Wayne Fox. "It means so much to so many students."

One of those students was on hand to receive her $2,500 scholarship, the result of winning this year's grand prize. Anna Wen of Honolulu, Hawaii, accompanied by her father, enjoyed her time in Washington and was very excited to be on hand for the auction.

LEFT: Affiliate members present on Emergency Preparedness at the Monday breakfast.

TOP: Grand-prize winner Anna Wen (center) is flanked by (from left) Foundation Chair Wayne Fox, and poster auctioneers Gemi Ozdemir and Johrita Solari.

RIGHT: NAHMA members participate in the HUD forum.

A Time for Giving Thanks

As the year draws to a close it is a perfect time to give thanks to all the many NAHMA members who have served, and in many cases will continue to serve, the organization. Among them are:

Outgoing NAHMA Board Member
Gemi Ozdemir, Dauby O'Connor & Zaleski, LLC

Outgoing NAHMA Educational Foundation Board Member
D. Keith Howard, Crown Properties, Inc.

Incoming NAHMA Board Members
Ron Burson, Gorsuch Management (re-election)
Lisa Tunick, Tunick Law LLC

Incoming NAHMA Educational Foundation Board Members
Dave Durik, Indatus (re-election)
Gustavo Sapiurka, RealPage (re-election)
Eric Strong, Navigate Affordable Housing Partners (re-election)
Connie Loukatos, Former Director, Philadelphia HUB, Department of Housing & Urban Development

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Bostonpost/MRI Software

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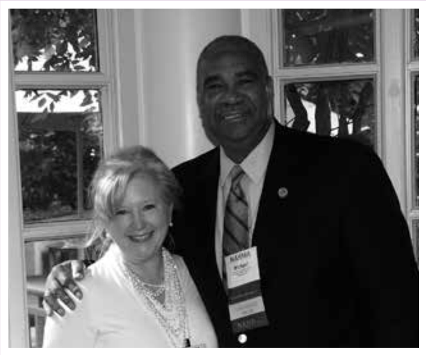

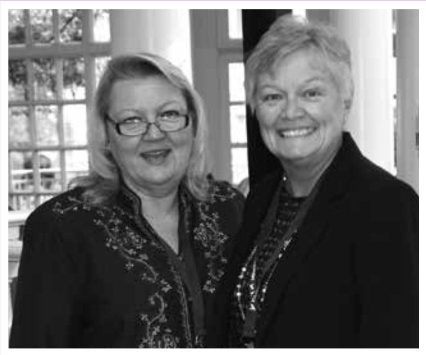

FACES FROM CONFERENCE—LEFT TO RIGHT: Heather Staggs, Stacie Packard and Debi Ross-Weseloh; Jodi Dimpsey with Michael Simmons; Morton Kondracke, keynote luncheon speaker; Rich Skoczylas and Gerri Aman; Daria Jakubowski and Karen Newsome.

BELOW: Members attend the keynote luncheon on Monday at the meeting.

NAHMA, Industry Push for Change 4 Delay

Citing the need for clarification and further input, NAHMA and affordable housing colleague organizations are asking HUD to slow down on implementing Change 4 to the HUD Occupancy Handbook 4350.3 REV-1.

Though initially HUD issued the handbook changes as effective immediately, NAHMA has continued to press for more information on the changes and to delay the implementation, a request complicated by the 16-day federal government shutdown in October. At press time, revised plans for the HUD implementation were uncertain.

Prior to the shutdown, HUD staff responded to inquiries from NAHMA by noting that it expected to update the industry shortly and was "revising the implementation period to allow for system changes and updates to training based on industry feedback."

Change 4 to Handbook 4350.3 REV-1, "Occupancy Requirements of Subsidized Multifamily Housing Programs," was issued on August 7, 2013 and was made effective immediately, prompting NAHMA to stress to HUD "the need for a reasonable implementation period before new policies take effect."

NAHMA continued, "The major arguments in support of the implementation period include giving owners and agents (O/As) time to make necessary updates to their policies, train staff and allow time to incorporate HUD's policy changes into the sites' software."

For example, NAHMA acknowledged that including foster children and adults as family members is a reasonable change but one that will generate a "far-reaching effect on the software changes"—including to certifications and Tenant Rental Assistance Certification System (TRACS)—necessary for O/As' compliance.

NAHMA urged HUD to remain open to stakeholders' comments and allow for the review of new policy proposals before they take effect, even if this is accomplished through an informal comment period.

POLICY CONCERNS

Key policy items in Change 4 relate to the:

- Use of the Enterprise Income Verification (EIV) system;
- Violence Against Women Act (VAWA) requirements;
- Supplemental Information to Application for Federally Assisted Housing;
- Rent Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs; and
- Final rule relating to admission of individuals subject to state lifetime sex offender registration.

NAHMA has raised specific concerns about:

- **The student rule**, where a simple conjunction has led to a measure of confusion. An attempt was made to clarify paragraph 3-13.A.2 by adding "and" after each criterion to determine eligibility for assistance. But neither the statutory nor regulatory language includes all of these "ands," which raised questions about whether HUD intended to change its previous guidance on students' eligibility for assistance.

HUD responded to NAHMA that the added "ands" were in reaction to unclear regulations and subsequent questions from the industry and "is not a change, only a clarification."

- **The elimination of Chapter 9 from Change 3** without replacing relevant information elsewhere in Change 4. Chapter 9 was called "Chapter 9–Required HUD-50059 and Subsidy Data Reporting."

HUD's Transmittal Notice stated that the previous Chapter 9 was removed due to the information already existing in the Monthly Activity Transmission (MAT) Guide.

However, the previous Chapter 9 also included guidance on special claims, excess income, TRACS data and signature requirements, document retention requirements for Form HUD-50059 (Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures), and voucher files and uncashed utility reimbursement checks.

The new "Chapter 9–Enterprise Income Verification" in Change 4 provides guidance for using HUD's EIV system. Information from EIV Notice H 2013-06 is included.

- **Further changes due to VAWA provisions in Change 4.**

Change 4 incorporates the Section 8 requirements included in HUD Regulations 24 CFR 5 Subpart L–Protection for Victims of Domestic Violence, Dating Violence, or Stalking in Public and Section 8 Housing.

But the Violence Against Women Reauthorization Act of 2013 (PL 113-4) expands the protections and the programs covered well beyond the project- and tenant-based Section 8 and Public Housing programs. As has been reported in NAHMA News, the newly covered programs include Section 202, Section 811, HOME, Section 236, Section 221(d)(3), and LIHTC properties.

While the VAWA 2013 reauthorization did not amend the authorizing statutes for the newly covered HUD programs, HUD signaled its plans in August in the "Overview of Violence Against Women Act Reauthorization of 2013: Applicability to HUD Programs." (See article on VAWA in this issue, beginning on page 1.)

As it seeks clarity from HUD on these issues and others in Change 4, NAHMA is interested in hearing from members on their experiences with implementing Change 4 provisions. **NN**

A RAD Plan to Preserve Affordable Housing

BY DAVID LACKI AND BRIAN COATE

The preservation and improvement of the nation's affordable rental housing stock is a goal perennially at the forefront of the affordable housing industry. According to recent HUD estimates, the public housing supply has a backlog of at least $25.6 billion in unmet capital needs. In this era of sequesters, budget cuts and austerity, it can be extremely difficult to find the funding necessary to meet those needs. Enter the HUD budget-neutral Rental Assistance Demonstration (RAD) program.

The RAD program was introduced in 2012 as part of HUD's efforts to improve the quality of the nation's affordable housing. The program is designed to allow public housing authorities (PHAs) and private owners of federally assisted properties to replace the current income stream of the properties with long-term, project-based Sec. 8 contracts. The project-based subsidies associated with Sec. 8 contracts are compatible with low income housing tax credits (LIHTCs) and HUD/Federal Housing Administration (FHA) funding, the preferred method of financing in today's fiscal environment.

The program is designed to allow public housing authorities (PHAs) and private owners of federally assisted properties to replace the current income stream of the properties with long-term, project-based Sec. 8 contracts.

The conversion of at-risk public housing to project-based vouchers or rental assistance contracts under the Sec. 8 program gives PHAs and owners more flexibility to leverage private and public financing sources to renovate and preserve their affordable units. The long-term Sec. 8 contract provides the financial security that investors like to see. With a long-term Sec. 8 contract in place that sets rent levels, developers and PHAs can focus on obtaining capital funding through a mix of LIHTCs and private and public funding.

TWO-PART PROGRAM

RAD is comprised of two components:

- The first component is limited to public housing and Sec. 8 moderate rehabilitation (mod rehab) properties. This component is competitive and is limited to 60,000 units. Under this component, owners can convert their current assistance to project-based rental assistance (PBRA) or project-based vouchers (PBV).
- The second component is open to owners of mod rehab, rent supplement (rent supp) and rental assistance payment (RAP) properties. Under the second component, owners can convert tenant protection vouchers (TPVs) to PBVs. There is no cap but it is subject to the availability of TPVs. Due to many owners receiving RAP and rent supp contracts in the mid-1980s, there is currently a swell of properties with RAP and rent supp contracts that have expired or are about to expire. These are ideal opportunities for a RAD conversion. Any RAP or rent supp that expired or was terminated on or after Oct. 1, 2006, is eligible.

THE APPLICATION PROCESS

Timing is an integral part of the RAD application process. The following describes what a PHA or developer can expect if pursuing a RAD conversion without other funding deadlines:

- Within the first 30 days of issuance, the applicant must submit to HUD an accepted lender engagement or commitment letter. This letter should mention the proposed loan amount and the sources and uses. During this 30-day period, a statement of development team capacity is also required to reflect the team's relevant successful financing and operating experience.
- Within 60 days of issuance, the applicant must submit its decision as to whether the project will convert its assistance to PBV or PBRA.
- Within 90 days, the applicant must submit a certification from the PHA that all industry-standard due diligence has been completed by the lender and any other financing sources. This typically will include a physical conditions assessment (PCA), an appraisal and a current survey report.
- Within 150 days, the applicant must submit certification that it has applied for firm commitments for all financing.
- Within 180 days, a financing plan must be submitted. HUD will have 60 calendar days from the submission of the financing plan to approve, reject or request additional information.
- Within 320 days, evidence of firm commitments for all financing must be in hand.
- Within 360 days, the deal must reach closing, at which time the RAD conversion is completed.

If other funding sources are being used, HUD will address those individually on a deal-by-deal basis. For example, if a project is applying for 4% LIHTC, HUD can change the calendar to coincide with the LIHTC application and allocation timelines.

INCORPORATING FHA FINANCING

The RAD program allows for PHAs and developers to access LIHTCs, an important form of equity for affordable projects. Often, HUD/FHA financing can be used in conjunction with LIHTCs to complete the funding picture. For developers looking to use RAD for refinancing or acquisition, the FHA Sec. 223(f) Program can be a good fit. This can include minor repairs, up to $6,500 per unit times the applicable high cost factor, and offers a term up to 35 years. For developers seeking to use RAD for a substantial rehabilitation, the FHA Sec. 221(d)(4) Program can complete the financing plan. The Sec. 221(d)(4) Program allows for a 40-year term. Another option is the FHA 223(f) LIHTC Pilot Program. The pilot, which started in 2012, allows for rehabilitation expenditures of up to $40,000 per unit and requires that LIHTCs already be in hand.

RAD FULL STEAM AHEAD

According to HUD estimates, nearly 10,000 public housing units are lost annually to deterioration. With the voracious appetite for budget cuts on Capitol Hill, coupled with the decaying stock of existing affordable units, solving this dilemma requires a creative and budget-neutral financial solution. The RAD program is a product of this realization. By leveraging private and public sources of funding, PHAs and developers can get proactive in addressing the immediate and long-term needs of their project. This improves and extends the life of the affordable property, which in turn improves the lives of its residents and the community in which it resides. **NN**

David Lacki is the managing director of Lancaster Pollard's housing group in Columbus. He may be reached at dlacki@lancasterpollard.com. Brian Coate is a vice president with Lancaster Pollard in Columbus. He may be reached at bcoate@lancasterpollard.com. Reprinted with permission from The Capital Issue at www.lancasterpollard.com.

RHS Fee Freeze Gets Chilly Reception

For the third year in a row, USDA's Rural Housing Service (RHS) has decided to fix management fees for managers of rural apartments at prior-year levels.

RHS's justification for the fiscal 2014 freeze rests on the budget impact on the Section 521 Rental Assistance (RA) program. For fiscal year 2013, RHS's rationale was based on the Improper Payments Information Act (IPIA) audit error rate in the Rental Assistance Program and Multi Family Information System (MFIS) findings attributed to management agent submissions.

A senior RHS official notified NAHMA of the plan to hold firm on the management fee freeze. On September 24, 2013, USDA-Rural Development (RD) headquarters sent an internal email to the multifamily housing program directors in the field offices, which advised that "there will be no increase to the FY 14 management fee. We will continue to use the management fee rate in place for FY 13…."

NAHMA and other industry partners joined a letter from the Council for Affordable and Rural Housing to senior RD officials. It said, "… we ask you to reconsider your decision to prohibit hard working management companies from receiving basic, market-driven management fee increases."

Pointing out that management fee increases were disallowed in 2013 and 2012—and only earned a limited increase in 2011—the industry letter added, "These actions do not advance the spirit of public-private partnership that is essential to program success."

RURAL MANAGEMENT COSTS

RD property management agents perform and pay for mandatory tasks from the management fees, which RD calculates using a unique national methodology. In contrast, the letter argues, HUD allows compensation for base fees plus add-ons for services that RD does not allow to be provided in the form of additional compensation.

In rural America, the freeze on fees and the relative size of RD properties squeezes many managers. According to the letter, "RD properties are small, on average about 24 units, often remote, and therefore are more costly to manage on a per unit basis than urban projects."

While the RD Handbook 3560-1 outlines state office coordination and survey fee data to set the base, a communiqué from RD headquarters last June allowed states to forgo new surveys and instead use the prior-year results. Apparently, only four state offices conducted a new survey. The remainder used data over a year old.

Regarding the impact of higher fees on the RA budget as a reason to withhold fee increases, the industry group asserts that "this way simply shifts the financial burden from the federal government on to the private parties operating in the program, forcing your business partners to pay for the federal government's obligation."

In closing, the industry groups asked RD to reconsider its freeze on management fees and lift the fee levels based on better survey data or make adjustments through an Operating Cost Adjustment Factor (OCAF), as had been done in past years.

NAHMA staff will continue consulting with the rural housing industry colleagues and members on appropriate next steps. Members who manage RD properties are asked to provide examples of how their operations were affected by the previous two management fee freezes. **NN**

PBCA NOFA Appeal Status

AS OF PRESS TIME, THE LAWSUIT BROUGHT AGAINST HUD by eight performance-based contract administrators (PBCAs) is moving through the appeals process, with a court of appeals decision expected by the end of December 2013.

After completion of a 2012 PBCA Notice of Funding Availability (NOFA) to solicit bids for PBCA contracts, the PBCAs sued HUD, claiming that the NOFA was not an appropriate vehicle for awarding PBCA contracts.

A short chronology of recent actions:

- **April 19, 2013: The Court of Federal Claims rules in HUD's favor, saying that the NOFA system was appropriate to use for PBCA awards.**
- **August 27, 2013: The U.S. Court of Appeals grants the plaintiffs' motion for a stay pending appeal, and the court orders HUD to stop all PBCA award proceedings until the appeal is decided. HUD may not execute the new annual contributions contracts (ACCs) until the case is resolved.**
- **October 10, 2013: The Court of Appeals hears oral arguments, and the three-judge panel begins deliberations.**

While the case proceeds, PBCAs in 42 states and territories continue to operate (sans MORs) under a series of three-month extensions. In the 11 uncontested states, HUD plans to offer new two-year contracts beginning January 1, 2014. All 53 states and territories then would be back on the same contract cycle. Until then, HUD has the 11 PBCAs on three-month extensions of their existing contracts.

Protect Your Network Security

BY J. MEGAN DAVIDSON

Data breaches cost American businesses millions of dollars a year. These breaches can expose your organization to extraordinary costs.

Executive directors and officers are also at risk. Some have been sued for alleged failure to provide adequate network security or to act diligently in managing the risk of data breaches.

Providers of affordable housing handle large amounts of personal data—from Social Security numbers to credit, health and other confidential information. Failure to protect this data puts assets, income stream and reputation at risk.

Identifying your exposures and developing a customized insurance solution is key to protecting the financial health of an organization.

There are many incidents that never hit the news, but the following breaches were widely reported in the media:

May 9, 2013—Reuters
Washington State system hacked, data of thousands at risk—The website for the Washington state court system has been hacked and up to 160,000 Social Security numbers and a million driver's license numbers may have been accessed…. This disclosure, which follows a number of major hacking incidents in recent years that have targeted a range of companies from Twitter to Apple, Inc., raises concerns that the information accessed could be used to commit financial fraud.

August 21, 2013—Alaska Dispatch
Email accident violates privacy of thousands of Hope Community clients
Families and caregivers connected to Alaska's disabled are speaking out after the inadvertent release of private, personal and sensitive identity and healthcare information was blasted out in an email chain. Some are just angry that an attachment with personal information was accidentally added to a survey solicitation. Others are worried that the release of sensitive and valuable personal information—like name, date-of-birth, next of kin, and contact information—could potentially lead to discrimination against the disabled…. (More than 3,500 records were inadvertently released).

If you collect or store private information about your residents, employees or other parties, you could be at risk. Do you have a website that describes your properties? Services? What if someone stole a company laptop containing sensitive information about your tenants or employees? Do you accept credit cards or depend on a computer network for normal business operations? If so, you may be exposed to network risk and privacy liability—which is not usually covered by traditional insurance policies.

Failing to prevent a breach of confidentiality data could lead to significant expenses for litigation, regulatory investigations, crisis management, reputation repair, data restoration, and notifications and credit monitoring for every person whose information was compromised.

Information theft is increasing sharply worldwide. This threat exists not only from outside your organization, but also from employees. Identifying your exposures and developing a customized insurance solution is key to protecting the financial health of an organization. Broad coverage should include the following:

- Network security, including unauthorized access and use by parties inside and outside your organization;
- Enterprise privacy, including regulatory defense expenses, regulatory fines and penalties, payment card industry (PCI) fines and penalties, and consumer redress funds;
- Crisis management and public relations expenses;
- Losses related to business interruption and information assets;
- Electronic intellectual property infringement or personal injury;
- Network extortion;
- Loss or theft of portable devices;
- Corruption or destruction of digital assets;
- Identity theft; and
- Theft, loss or wrongful disclosure of proprietary information;

The threat is clear in the computer age. The answer is to understand what your options are with respect to protecting yourself from an "intrusion," and considering exploring the insurance options that will protect your organization from the financial consequences of a breach. Your insurance broker should understand the risks and the insurance marketplace, have access to the markets that are most competitive in this area, and have the most cost-effective coverage options available. **NN**

J. Megan Davidson, ARM, CISC, is a Vice President at Wells Fargo Insurance Services USA, Inc. She can be reached at 206-892-9255 or at Megan.Davidson@wellsfargo.com

Scholarship Program's Legacy of Achievement

Through its first seven years, the NAHMA Educational Foundation's National Scholarship Program has awarded scholarships worth $350,000 to more than 270 residents. These totals are particularly impressive considering that in its inaugural year of 2007, $22,000 was awarded to 22 NAHMA Scholars.

In 2013, 59 worthy student residents received a total of $137,500. "The recent infusion of $70,000 raised during the auction of poster-calendar artwork at NAHMA's October meeting means we should hopefully be able to continue to expand the program as we move into 2014," said NAHMA Educational Foundation Chairperson Wayne Fox.

"We know that the ever escalating costs of higher education have a profound impact upon residents of affordable housing," Fox said. "Our residents frequently struggle to take care of life's most basic needs. The NAHMA Scholarship Program helps to make the opportunity of pursuing higher education a reality for many residents at affordable apartment communities across the country."

"More than 65 percent of all NAHMA scholars have a grade point average above a 3.0 and many have a resume of outstanding and sustained co-curricular activities and/or community service."

"The truly outstanding academic performance of the NAHMA Scholars is both impressive and gratifying to see," said Dr. Bruce Johnson, who administers the program. "More than 65 percent of all NAHMA scholars have a grade point average above a 3.0 and many have a resume of outstanding and sustained co-curricular activities and/or community service."

Tracking through the first six years of the scholarship program revealed that an average of five individuals per year graduated from their respective community college, university or trade school.

In 2013, students from 12 different AHMAs were selected to receive scholarships as the foundation continues to strive to make this a truly nationwide program. Notification of the 2014 scholarship application's availability will be sent in January and can also be seen at www.nahma.org.

"Please publicize this outstanding program to your residents and help them fulfill their educational goals," Johnson said. **NN**

One of the Best Gifts You Can Give

The 2014 NAHMA Drug-Free Kids calendar is bursting with color and with beautiful photographs of the calendar contest winners. The winning artwork was first vetted through the local AHMAs and then judged according to age group.

This year's theme was "We Are One Family: Friends Make the World a Better Place." Grand-prize winner Anna Wen's artwork was submitted by AHMA-Northern California and Hawaii (NCH).

Because of the important anti-drug message that is always conveyed by the calendars, purchasing them is a HUD- and RHS-allowable expense! You may also earn points in your state's tax credit Qualified Application Process.

Order your NAHMA calendar today, for just $5.50 each, via the order form contained in this issue of NAHMA News, by going to NAHMA's website store at www.nahma.org/store or by calling NAHMA at 703-683-8630, ext. 115 for a faxable order form.

You, too, can be a friend who "Makes the World a Better Place" by supporting this contest, the artists who contribute their work and the positive messages it shares. Every calendar counts!

There's No Place Like NAHMA for the BEST in Training and Certification

Enhance your career and improve your work today with training and certification programs designed by NAHMA specifically for you. You can:

- Attend a three-day course that earns you the coveted Certified Professional of Occupancy™ (CPO™) designation.
- Learn the compliance requirements set forth in the Fair Housing Act and Section 504 regulations.

Earn one of NAHMA's prestigious professional credentials, which are dedicated solely to recognizing and promoting achievement of the highest possible professional standards in affordable housing management. Programs include the

- National Affordable Housing Professional™ (NAHP™)
- National Affordable Housing Professional-Executive™ (NAHP-e™)
- Specialist in Housing Credit Management™ (SHCM™)
- Certified Professional of Occupancy™ (CPO™)
- Fair Housing Compliance™ (FHC™)
- NAHMA Maintenance Professional
- Credential for Green Property Management

Take advantage of the National Affordable Housing Management Association's training and certification opportunities and add value to yourself as a professional.

For more information, visit www.nahma.org and click on Education.

NAHMA

ON AUGUST 23, THE OFFICE OF MULTIFAMILY HOUSING issued Notice H 2013-25 entitled "Updated Guidelines for Continuation of Interest Reduction Payments after Refinancing: "Decoupling," as allowed by the National Housing Act, under Section 236(e)(2)." The Notice establishes updated procedures for the optional continuation of Interest Reduction Payment (IRP) assistance when projects assisted under Section 236 are refinanced. Under Section 236(e)(2) the IRP subsidy may continue provided the owner enters into a new agreement for IRP and use agreement to maintain the project as a low-income housing resource.

HUD NEWS

HUD RECENTLY ISSUED THE FAIR MARKET RENTS (FMRS) FOR FISCAL YEAR 2014 in the Federal Register. This Notice publishes the FMRs for the Housing Choice Voucher, the Moderate Rehabilitation, the project-based voucher, and any other programs requiring their use. It also provides final FY 2014 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2014. The FY 2014 FMRs are based on 5-year, 2007–2011 data collected by the American Community Survey (ACS). The Notice is now available on NAHMA's HUD webpage under the Data Sets section.

HUD NOTICE H 13-27, "ANNUAL BASE CITY HIGH COST PERCENTAGE AND HIGH COST AREA REVISIONS FOR 2013," lists the revised Base City High Cost Percentages for FHA Multifamily Mortgage Programs. According to HUD, "In accordance with Chapter 5, paragraphs 5-6 of HUD Handbook 4445.1 REV-2, Underwriting Technical Direction for Project Mortgage Insurance, we have reviewed the High Cost Percentages (HCP) for each Base City. Each Base City HCP has been recalculated based on Marshall & Swift construction data. The results are reflected in the attached list of authorized Base City HCPs, effective January 1, 2013." For more information, go to portal.hud.gov/huddoc/13-27hsgn.pdf or to NAHMA's HUD webpage.

HUD HAS PUBLISHED THE 2014 OPERATING COST ADJUSTMENT FACTORS (OCAFS), which are used to adjust Section 8 rents renewed under Section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA). The new OCAFs are effective on February 11, 2014. The U.S. average OCAF is 1.9 percent. For more information, go to NAHMA's HUD webpage under the data sets section.

HUD MORTGAGEE LETTER 2013–31, "EXTENSION OF TEMPORARY AUTHORITY FOR MULTIFAMILY HUBS TO PROCESS WAIVER REQUESTS PERTAINING TO THE 3-YEAR RULE FOR SECTION 223(F) REFINANCING OR ACQUISITION OF AFFORDABLE MULTIFAMILY RENTAL HOUSING" was published September 18, 2013. The letter extends the temporary authority for Multifamily Hubs to waive the 3-Year Rule on Section 223(f) applications for recently completed affordable rental housing. The authority is extended for an additional one year period, and HUD anticipates that this will be the final extension of the 3-Year Rule Waiver. All other conditions and requirements of Mortgagee Letter 2012-13 remain unchanged.

HUD NOTICE H 2013-24, SECTION 811 PROJECT RENTAL ASSISTANCE (PRA) OCCUPANCY INTERIM NOTICE is now available on the HUD webpage at NAHMA.org. The purpose of this Notice is to provide occupancy guidance for the Section 811 Project Rental Assistance (PRA) program. The Section 811 PRA program is designed to provide permanent supportive housing for extremely low-income persons with disabilities receiving long-term supports and services in the community. PRA funds are provided under the condition that a grantee has a partnership with their state health and human services/Medicaid agency. **NN**

A Steady Climb Up the Ladder

PETER LEWIS'S INTRODUCTION to property management began in high school, when he and a friend worked at the friend's father's 60-pad mobile home park in Middletown, R.I. He did everything from maintenance to landscaping to carpentry and even sales before going off to college, where he majored in forest resource management.

Unfortunately, he graduated in the midst of the recession of 1985, and even though he did seasonal work for the Forest Service in Oregon fighting forest fires, he just couldn't get a full-time job.

He decided to return to property management and began with Ferland Management. "I trained with them and got promoted pretty quickly to property manager," he said. He moved to Boston in 1988 and spent about eight years working for Jewish Community Housing for the Elderly. He advanced "from recertifications to assistant manager to manager before becoming a regional manager overseeing five of their properties," he said.

Lewis then went to work for Peabody Properties in 1995. He left in 2001 and joined Rhode Island Housing's asset management division, overseeing about 22,000 units. He was there until December 2004.

After a brief stint in condominium management, Lewis went back to affordable housing at Cornerstone Corporation in Westwood, Mass. He was there until October 2006.

A CHANCE TO GO GREEN

The Schochet Companies "came looking for me," Lewis said. "I didn't even have my resume out on the street." He joined Schochet in 2006 when it managed about 3,000 units. It now has 4,500 units of housing, most of it affordable, as well as roughly 300,000 sq. ft. of commercial space.

Schochet is celebrating its 40th anniversary, and Lewis is very proud of the reputation and quality of management the company does. He directly supervises five senior managers, the director of compliance and the director of resident services, and through all of them, the property managers and related staff.

The Schochet Companies were recently awarded Accredited Management Organization (AMO) of the Year by Boston Metropolitan Chapter #4 of the Institute of Real Estate Management (IREM).

What Lewis finds stimulating right now is "making sure our properties are sustainable," Lewis said. The company started its sustainability program around 2008, "and it's been a driving force for us ever since then."

The Schochet Companies recently received full SPI-HUD Accreditation for their efforts in sustainability throughout their portfolio. SPI-HUD Green Organizational Accreditation is part of the Affordable Green Initiative launched by HUD in 2012. The Sustainable Performance Institute (SPI) recognizes those HUD grantees and affordable housing organizations that achieve portfolio-wide improvements.

The vision of this initiative is to enable organizations to institutionalize sustainability and achieve higher levels of performance of the management of their housing portfolios. Accreditation distinguishes organizations that implement green building and operational best practices, build capacity of staff, track and measure building performance effectively over time, realize significant improvements in health and energy efficiency, and achieve exemplary cost savings.

Only 24 organizations from across the U.S. were accredited through the pilot. Of those, 17 (including Schochet) achieved full accreditation, meaning they have already implemented most or all of the best practices contained in the accreditation criteria and can document their actions accordingly. "Many of our properties are older, so it's not easy to get LEED certified," Lewis noted. "Still, every capital improvement we make includes anything we can do to get the best bang for the buck and do what's best for the environment."

VALUING THE AFFORDABLE HOUSING COMMUNITY

Among the things Lewis appreciates about working in the affordable housing industry is that "no two days that are the same."

"You have to be able to roll with the punches and be adaptable in this fast-paced, ever-changing environment."

Lewis said he values his memberships in NEAHMA and NAHMA because it's a chance for "everybody to share what's happening with HUD and the industry. It's important to know you're not alone. Sometimes you think you are, but you're not." **NN**

EDUCATION CALENDAR

For information on specific classes being offered, please contact the AHMA or organization directly. All dates and locations are subject to change. For the most up-to-date listings, visit the NAHMA website at www.nahma.org/content/mem_calendar.html.

NOVEMBER

19
REAC
Grand Rapids, MI
Audra Garrison, MAHMA
(888) 242-9472
www.mahma.com

19–20
Tax Credit/SHCM
Seattle, WA
Joseph B. Diehl, AHMA-WA
(206) 290-5498
ahma-wa.org

19–21
CPO
Detroit, MI
Audra Garrison, MAHMA
(888) 242-9472
www.mahma.com

21–22
Tax Credit/SHCM
Spokane, WA
Joseph B. Diehl, AHMA-WA
(206) 290-5498
ahma-wa.org

JANUARY

22
FHC
Atlanta, GA
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/fair-housing

23–24
Tax Credit/SHCM
Atlanta, GA
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org/tax-credit

FEBRUARY

10–11
AHMA-PSW Arizona Annual Seminar
Phoenix, AZ
Jennifer Diehl, AHMA PSW
(855) 598-2462
www.ahma-psw.org

25–26
Georgia State Meeting
Atlanta, GA
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org

MARCH

19–21
South Carolina State Meeting
Columbia, SC
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org

20
AHMA-PSW Nevada Annual Seminar
Las Vegas, NV
Jennifer Diehl, AHMA PSW
(855) 598-2462
www.ahma-psw.org

24–26
Alabama State Meeting
Birmingham, AL
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org

25–26
Tax Credit/SHCM
Boston, MA
Julie Kelliher, NEAHMA
(781) 380-4344
www.neahma.org

APRIL

9
FHC
Boston, MA
Julie Kelliher, NEAHMA
(781) 380-4344
www.neahma.org

15–17
Florida State Meeting
Jacksonville, FL
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org

22–24
Mississippi State Meeting
Jackson, MS
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org

22–24
CPO
MA
Julie Kelliher, NEAHMA
(781) 380-4344
www.neahma.org

MAY

6–8
North Carolina State Meeting
Greensboro, NC
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org

12–15
Kentucky Housing Management Conference
Louisville, KY
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org

19–20
AHMA-PSW 37th Annual Los Angeles Seminar
Los Angeles, CA
Jennifer Diehl, AHMA PSW
(855) 598-2462
www.ahma-psw.org

19–21
Tennessee State Meeting
Murfreesboro, TN
Betsy Eddy, SAHMA
(800) 745-4088
www.sahma.org

Mission Being Accomplished at PennDel AHMA

GERRI AMAN HAS BEEN THE executive director of the Pennsylvania-Delaware (PennDel) AHMA for all but the first three months of its 10 years.

"Most of the members who started PennDel AHMA were already members of JAHMA," the New Jersey AHMA, Aman said. "JAHMA was and still is doing a great job, but it was felt that a sister organization in Pennsylvania and Delaware was needed."

The structure of PennDel AHMA was basically based on that of JAHMA. "We didn't try to reinvent the wheel," Aman said. Prior to being named executive director of PennDel AHMA, Aman had worked closely with Jo Ann McKay, the executive director of JAHMA, and knew its operations well.

The two organizations do have "different personalities," Aman said.

"PennDel has more members in rural communities, some with far fewer units," she said. "Since our focus is primarily on providing regular, affordable training for our members, this means we tailor our programs to include this constituency." PennDel AHMA's regular members are affordable housing property owners and managers, and they number about 70; its affiliate members are individual properties, of which there are now 199; and its associate (vendor) members include more than 90 companies.

"We're still considered to be a small AHMA," Aman said, "but we're growing pretty consistently."

PennDel AHMA counts among its supporters representatives of HUD's Philadelphia Office, the Pennsylvania Housing Finance Agency (PHFA), and the Delaware State Housing Authority (DSHA).

COMMITTED TO NAHMA

Aman said that PennDel AHMA's board of directors is committed to offering all the training it can and strives for its members to become certified by NAHMA as National Affordable Housing Professionals (NAHPs), Certified Professionals of Occupancy (CPOs), Specialists in Housing Credit Management (SHCMs) and National Accredited Housing Maintenance Supervisors or Technicians (NAHMSs and NAHMTs).

It supports NAHMA in other ways as well, consistently receiving awards for being among the best of the AHMAs in the country, for its size. In 2013 it won NAHMA's Innovation Award for dramatically increasing the amount of funds raised for the NAHMA Educational Foundation from $15,000 to $25,000 in one year. They subsequently solicited scholarship applications that resulted in 11 residents receiving $12,500 in scholarships. This year that number of awards was increased by $5,000. The money was raised through the sale of advertising in its Management Conference journal.

Also in 2013, PennDel AHMA won one of the AHMA Communities of Quality® Awards, which recognizes the AHMAs that have the most new, or most overall, properties listed on the NAHMA National Recognition Program COQ Registry (based on data maintained by NAHMA staff). Aman and the board also urge its members to attend NAHMA's national meetings.

"They always find it a valuable experience," Aman said, "as do we." Several PennDel board members serve on the NAHMA Executive Council as well as the Certification Review Board and the Education and Training, Rural Housing, and Federal Affairs committees.

COMMITTED TO THE HOME FRONT

PennDel AHMA also fosters close ties with its membership and its community. Its annual conference, breakfast and luncheon meetings, and trainings are always very well attended. It acknowledges its members and partners with awards (such as an annual Industry Partner Award) and other forms of recognition. It sponsored The Encarnacion (Connie) Loukatos Educational Scholarship, in honor of the recently retired Philadelphia Multifamily Hub director who was instrumental in supporting the start-up of the AHMA in 2003. PennDel AHMA also collects toys for the holidays and supports the Salvation Army and the Wounded Warrior Project.

Aman keeps the PennDel AHMA running smoothly and also is executive director of the New Jersey chapter of Institute of Real Estate Management (IREM). "I consider myself very fortunate to work with such dedicated groups of professionals," she said.

Aman lives in Palmyra, N.J., with her husband Joe and is the mother of a daughter and son. She enjoys gardening and visiting flea markets, a passion she inherited from both her father and grandfather. **NN**

NAHMANews
National Affordable Housing Management Association
400 North Columbus Street, Suite 203
Alexandria, VA 22314
www.NAHMA.org

PROTECTING THE INTERESTS OF AFFORDABLE HOUSING PROPERTY MANAGERS AND OWNERS

thelastword

Your Direct Contact Makes All the Difference

THE FEDERAL GOVERNMENT has re-opened. However, that does not mean the work of owners and agents of affordable housing communities is done. In fact, it is a strong reminder of the work still to be done. If you are thinking, "what can I do that other NAHMA members have not already done, or what have I not already done myself?" please keep reading.

All members are encouraged to visit NAHMA's Grassroots Action webpage on the NAHMA webpage. There you will find tools such as:

- **Frequency Asked Questions on Grassroots Advocacy**, which is general information on Congressional grassroots advocacy.
- **How to Advocate**, which lists best practices for effective grassroots advocacy.
- **NAHMA's Top Legislative Priorities**, a list of NAHMA's advocacy objectives and helpful talking points.
- **Recent Grassroots Alerts**, the latest on NAHMA action campaigns.
- **NAHMA Maps**, detailing affordable housing statistical information for your visits to the Hill, and providing the list and contact information for your Congressional representatives.

If you have never visited the Hill, you are missing a prime opportunity to assist in educating our elected officials and their staff on the benefits of affordable housing. Did you know NAHMA staff is available to assist you in scheduling appointments, preparing for your meetings and, if their schedules permit, they will attend the meetings with you. Also, experienced members are willing to assist in the same manner. We just need to know what you need to be successful in your visits.

In the event that your schedule does not permit you to attend a NAHMA meeting, do not think there is nothing you can do. In fact, you can schedule meetings with your elected officials when they are home, in district, on recess. Also, you can extend invitations to the officials and/or their staff to tour your communities, including inviting them to groundbreakings and grand openings. Having them on site to see first-hand the benefits of the community can be priceless.

I remember my first visit to the Hill. Admittedly, I was nervous. After studying the talking points, preparing for the possible questions that could be asked, and reviewing the process with NAHMA staff, I was ready for my visit. I walked into the Congress member's office and rattled off my facts, a story I hoped they could relate to and my closing pitch. Then off to the next meeting, which the staff person was less than excited to be attending. Bottom line, there was no need to be nervous.

Please feel free to contact me if I can be of any assistance, and please share your grassroots experiences with NAHMA staff by submitting a brief recap of steps you took to advocate on behalf of affordable housing. **NN**

Gianna Solari, SHCM, NAHP-e, FHC, is Vice President/COO of Solari Enterprises, Inc. of Orange, CA and is President of NAHMA.